

OGC 75-2881

8 August 1975

MEMORANDUM FOR: ADDI

SUBJECT : Distribution of Unclassified Agency Publications  
to the Public

1. Please excuse the delay in our response to your request. You asked whether CIA publications could be provided free of charge to certain private organizations and individuals, notwithstanding the fact that these publications are available to the general public by purchase from the Government Printing Office. You were particularly concerned with the situation in which the recipient is "a friend" rather than an individual or organization which is doing work on our behalf.

2. It is our opinion, after consultation with the Office of General Counsel at the GPO, that Agency publications which are unclassified and otherwise not sensitive may be given to the public free of charge provided such distribution is for official purposes or in the public interest. Furthermore, these areas are probably broad enough to cover the situation with which you are concerned. The fact of concurrent publication for sale to the public by the GPO is irrelevant to the propriety of Agency distribution.

3. The legal authority of the Agency to disseminate its publications is found in subsection 102(d)(3) of the National Security Act of 1947 and in National Security Council Directive No. 1. Neither specifically authorizes nor prohibits distribution to the public. The Freedom of Information Act, however, requires that CIA records made or received in pursuance of federal law or transaction of public business be made available at the request of the general public. The Act provides that "documents shall be furnished without charge ... where the agency determines that waiver ... of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public." CIA regulations add that waiver also be made when the interest of the Government is served thereby.

4. The strong implication of the Act is that distribution to a member of the public which serves a public interest or official governmental purpose would be proper. It has long been Agency policy that its publications and information may be

disseminated to U.S. citizens who have need because of participation in the intelligence activities of the U.S. Government, Reg. N. 50-7, 7 April 1952. There is, however, no reason why official purposes must be limited to recipients directly involved in working relationships with the Agency. Other Government agencies frequently distribute publications to the public free of charge to foster good public relations.

5. There is no impropriety in the simultaneous distribution of publications by a Government agency and the GPO so long as the agency refrains from the wholesale distribution and sale of public documents. According to the GPO, it is common practice among Government agencies, most of which are required to have their publications printed by the GPO, to distribute complimentary copies of their publications while the same publications are being offered for sale by the GPO. In fact, the GPO takes the probable size of direct agency distribution into consideration when planning reprints for public sale.

6. The only circumstances under which distribution to the public is clearly improper is where it is made to further some private interest of an employee rather than an official or public interest. Agency regulations specifically provide that all information, including that which is unclassified, compiled, or created by the CIA, is official data and all employees are prohibited from using official data for any purpose other than performance of their official duties for or on behalf of the Agency. Moreover, such data may not be removed for use outside the Agency except by those officials that are authorized through the chain of authority under the direction of the Director of Central Intelligence. There are severe criminal penalties which may be imposed on one who converts Government property for his own use or use of another, or who, without authority, disposes of any records of the United States. Such acts are subject to fine or imprisonment.

  
Office of General Counsel

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*Copy - Please hold in "pending"  
for a week or so.*

Tuesday, 19 August 1975  
Executive Council Meeting

Mr. Proctor wants to mention the attached  
memo at the meeting today.

*file: OGC*